

109TH CONGRESS
2D SESSION

S. 3754

To amend the Internal Revenue Code of 1986 to allow individuals a refundable credit against income tax for the purchase of private health insurance, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 27 (legislative day, JULY 26), 2006

Mr. MARTINEZ (for himself and Mr. COLEMAN) introduced the following bill;
which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to allow individuals a refundable credit against income tax for the purchase of private health insurance, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Tax Equity and Af-
5 fordability Act of 2006”.

1 **SEC. 2. REFUNDABLE CREDIT FOR HEALTH INSURANCE**
 2 **COVERAGE.**

3 (a) IN GENERAL.—Subpart C of part IV of sub-
 4 chapter A of chapter 1 of the Internal Revenue Code of
 5 1986 (relating to refundable credits) is amended by redes-
 6 ignating section 36 as section 37 and by inserting after
 7 section 35 the following new section:

8 **“SEC. 36. HEALTH INSURANCE COSTS.**

9 “(a) IN GENERAL.—In the case of an individual,
 10 there shall be allowed as a credit against the tax imposed
 11 by this subtitle an amount equal to the amount paid dur-
 12 ing the taxable year for qualified health insurance for the
 13 taxpayer and the taxpayer’s spouse or dependent.

14 “(b) LIMITATIONS.—

15 “(1) IN GENERAL.—The amount allowed as a
 16 credit under subsection (a) to the taxpayer for the
 17 taxable year shall not exceed the sum of the monthly
 18 limitations for coverage months during such taxable
 19 year for the individual referred to in subsection (a)
 20 for whom the taxpayer paid during the taxable year
 21 any amount for coverage under qualified health in-
 22 surance.

23 “(2) PARTIAL PHASEOUT OF CREDIT
 24 AMOUNT.—

25 “(A) 37.5 PERCENT REDUCTION BASED ON
 26 ADJUSTED GROSS INCOME.—37.5 percent of the

amount determined under paragraph (1) for any taxable year shall be reduced by the amount determined under subparagraph (B).

“(B) AMOUNT OF REDUCTION.—The amount determined under this subparagraph shall be the amount which bears the same ratio to 37.5 percent of such amount determined under paragraph (1) as—

“(i) the excess of—

“(I) the taxpayer’s adjusted gross income for such taxable year, over

“(II) the applicable dollar amount, bears to

“(ii) \$15,000 (\$30,000 in the case of a joint return).

The rule of section 219(g)(2)(C) shall apply to any reduction under this subparagraph.

“(C) DEFINITIONS.—For purposes of this paragraph—

“(i) adjusted gross income shall be determined in the same manner as under section 408A(c)(3)(C)(i), and

“(ii) the applicable dollar amount is—

1 “(I) in the case of a taxpayer fil-
2 ing a joint return, \$30,000, and

3 “(II) in the case of any other
4 taxpayer, \$15,000.

5 “(3) MONTHLY LIMITATION.—

6 “(A) IN GENERAL.—The monthly limita-
7 tion for an individual for each coverage month
8 of such individual during the taxable year is the
9 amount equal to $\frac{1}{12}$ th of the qualified health
10 insurance amount.

11 “(B) QUALIFIED HEALTH INSURANCE
12 AMOUNT.—For purposes of this paragraph, the
13 qualified health insurance amount is—

14 “(i) \$2,000 if such individual is the
15 taxpayer, and

16 “(ii) \$2,000 if such individual is—

17 “(I) the spouse of the taxpayer,
18 the taxpayer and such spouse are
19 married as of the first day of such
20 month, and the taxpayer files a joint
21 return for the taxable year, or

22 “(II) an individual for whom a
23 deduction under section 151(c) is al-
24 lowable to the taxpayer for such tax-
25 able year.

1 “(C) LIMITATION TO SPOUSE OR DEPEND-
 2 ENT.—Not more than 1 individual may be
 3 taken into account by the taxpayer under sub-
 4 paragraph (B)(ii).

5 “(4) COVERAGE MONTH.—For purposes of this
 6 subsection—

7 “(A) IN GENERAL.—The term ‘coverage
 8 month’ means, with respect to an individual,
 9 any month if—

10 “(i) as of the first day of such month
 11 such individual is covered by qualified
 12 health insurance, and

13 “(ii) the premium for coverage under
 14 such insurance for such month is paid by
 15 the taxpayer.

16 “(B) EMPLOYER-SUBSIDIZED COV-
 17 ERAGE.—

18 “(i) IN GENERAL.—Such term shall
 19 not include any month for which such indi-
 20 vidual is eligible to participate in any sub-
 21 sidized health plan (within the meaning of
 22 section 162(l)(2)) maintained by any em-
 23 ployer of the taxpayer or of the spouse of
 24 the taxpayer.

1 “(ii) PREMIUMS TO NONSUBSIDIZED
 2 PLANS.—If an employer of the taxpayer or
 3 the spouse of the taxpayer maintains a
 4 health plan which is not a subsidized
 5 health plan (as so defined) and which con-
 6 stitutes qualified health insurance, em-
 7 ployee contributions to the plan shall be
 8 treated as amounts paid for qualified
 9 health insurance.

10 “(C) CAFETERIA PLAN AND FLEXIBLE
 11 SPENDING ACCOUNT BENEFICIARIES.—Such
 12 term shall not include any month during a tax-
 13 able year if any amount is not includible in the
 14 gross income of the taxpayer for such year
 15 under section 106 with respect to—

16 “(i) a benefit chosen under a cafeteria
 17 plan (as defined in section 125(d)), or

18 “(ii) a benefit provided under a flexi-
 19 ble spending or similar arrangement.

20 “(D) MEDICARE AND MEDICAID.—Such
 21 term shall not include any month with respect
 22 to an individual if, as of the first day of such
 23 month, such individual—

24 “(i) is entitled to any benefits under
 25 title XVIII of the Social Security Act, or

1 “(ii) is a participant in the program
2 under title XIX or XXI of such Act.

3 “(E) CERTAIN OTHER COVERAGE.—Such
4 term shall not include any month during a tax-
5 able year with respect to an individual if, at any
6 time during such year, any benefit is provided
7 to such individual under—

8 “(i) chapter 89 of title 5, United
9 States Code,

10 “(ii) chapter 55 of title 10, United
11 States Code,

12 “(iii) chapter 17 of title 38, United
13 States Code, or

14 “(iv) any medical care program under
15 the Indian Health Care Improvement Act.

16 “(F) PRISONERS.—Such term shall not in-
17 clude any month with respect to an individual
18 if, as of the first day of such month, such indi-
19 vidual is imprisoned under Federal, State, or
20 local authority.

21 “(G) INSUFFICIENT PRESENCE IN UNITED
22 STATES.—Such term shall not include any
23 month during a taxable year with respect to an
24 individual if such individual is present in the
25 United States on fewer than 183 days during

1 such year (determined in accordance with sec-
2 tion 7701(b)(7)).

3 “(c) QUALIFIED HEALTH INSURANCE.—For pur-
4 poses of this section—

5 “(1) IN GENERAL.—The term ‘qualified health
6 insurance’ means insurance which constitutes med-
7 ical care as defined in section 213(d) without regard
8 to—

9 “(A) paragraph (1)(C) thereof, and

10 “(B) so much of paragraph (1)(D) thereof
11 as relates to qualified long-term care insurance
12 contracts.

13 “(2) EXCLUSION OF CERTAIN OTHER CON-
14 TRACTS.—Such term shall not include insurance if a
15 substantial portion of its benefits are excepted bene-
16 fits (as defined in section 9832(c)).

17 “(d) ARCHER MSA AND HEALTH SAVINGS ACCOUNT
18 CONTRIBUTIONS.—

19 “(1) IN GENERAL.—If a deduction would (but
20 for paragraph (2)) be allowed under section 220 or
21 223 to the taxpayer for a payment for the taxable
22 year to the Archer MSA or health savings account
23 of an individual, subsection (a) shall be applied by
24 treating such payment as a payment for qualified
25 health insurance for such individual.

1 “(2) DENIAL OF DOUBLE BENEFIT.—No deduc-
2 tion shall be allowed under section 220 or 223 for
3 that portion of the payments otherwise allowable as
4 a deduction under section 220 or 223 for the taxable
5 year which is equal to the amount of credit allowed
6 for such taxable year by reason of this subsection.

7 “(e) SPECIAL RULES.—For purposes of this sec-
8 tion—

9 “(1) MARRIED COUPLES MUST FILE JOINT RE-
10 TURN.—If the taxpayer is married at the close of
11 the taxable year, the credit shall be allowed under
12 subsection (a) only if the taxpayer and the tax-
13 payer’s spouse file a joint return for the taxable
14 year.

15 “(2) DENIAL OF CREDIT TO DEPENDENTS.—No
16 credit shall be allowed under this section to any indi-
17 vidual with respect to whom a deduction under sec-
18 tion 151 is allowable to another taxpayer for a tax-
19 able year beginning in the calendar year in which
20 such individual’s taxable year begins.

21 “(3) DENIAL OF DOUBLE BENEFIT.—No credit
22 shall be allowed under subsection (a) if the credit
23 under section 35 is allowed and no credit shall be al-
24 lowed under 35 if a credit is allowed under this sec-
25 tion.

1 “(4) COORDINATION WITH DEDUCTION FOR
2 HEALTH INSURANCE COSTS.—In the case of a tax-
3 payer who is eligible to deduct any amount under
4 section 162(l) or 213 for the taxable year, this sec-
5 tion shall apply only if the taxpayer elects not to
6 claim any amount as a deduction under such section
7 for such year.

8 “(5) ELECTION NOT TO CLAIM CREDIT.—This
9 section shall not apply to a taxpayer for any taxable
10 year if such taxpayer elects to have this section not
11 apply for such taxable year.

12 “(6) INFLATION ADJUSTMENT.—In the case of
13 any taxable year beginning in a calendar year after
14 2007, each dollar amount contained in subsection
15 (b)(2)(B) shall be increased by an amount equal
16 to—

17 “(A) such dollar amount, multiplied by

18 “(B) the cost-of-living adjustment deter-
19 mined under section 1(f)(3) for the calendar
20 year in which the taxable year begins, deter-
21 mined by substituting ‘calendar year 2006’ for
22 ‘calendar year 1992’ in subparagraph (B)
23 thereof.

1 Any increase determined under the preceding sen-
 2 tence shall be rounded to the nearest multiple of
 3 \$50.”.

4 (b) INFORMATION REPORTING.—

5 (1) IN GENERAL.—Subpart B of part III of
 6 subchapter A of chapter 61 of such Code (relating
 7 to information concerning transactions with other
 8 persons) is amended by inserting after section
 9 6050T the following new section:

10 **“SEC. 6050U. RETURNS RELATING TO PAYMENTS FOR**
 11 **QUALIFIED HEALTH INSURANCE.**

12 “(a) IN GENERAL.—Any person who, in connection
 13 with a trade or business conducted by such person, re-
 14 ceives payments during any calendar year from any indi-
 15 vidual for coverage of such individual or any other indi-
 16 vidual under creditable health insurance, shall make the
 17 return described in subsection (b) (at such time as the
 18 Secretary may by regulations prescribe) with respect to
 19 each individual from whom such payments were received.

20 “(b) FORM AND MANNER OF RETURNS.—A return
 21 is described in this subsection if such return—

22 “(1) is in such form as the Secretary may pre-
 23 scribe, and

24 “(2) contains—

1 “(A) the name, address, and TIN of the
 2 individual from whom payments described in
 3 subsection (a) were received,

4 “(B) the name, address, and TIN of each
 5 individual who was provided by such person
 6 with coverage under creditable health insurance
 7 by reason of such payments and the period of
 8 such coverage, and

9 “(C) such other information as the Sec-
 10 retary may reasonably prescribe.

11 “(c) CREDITABLE HEALTH INSURANCE.—For pur-
 12 poses of this section, the term ‘creditable health insurance’
 13 means qualified health insurance (as defined in section
 14 36(c)) other than—

15 “(1) insurance under a subsidized group health
 16 plan maintained by an employer, or

17 “(2) to the extent provided in regulations pre-
 18 scribed by the Secretary, any other insurance cov-
 19 ering an individual if no credit is allowable under
 20 section 36 with respect to such coverage.

21 “(d) STATEMENTS TO BE FURNISHED TO INDIVID-
 22 UALS WITH RESPECT TO WHOM INFORMATION IS RE-
 23 QUIRED.—Every person required to make a return under
 24 subsection (a) shall furnish to each individual whose name

1 is required under subsection (b)(2)(A) to be set forth in
 2 such return a written statement showing—

3 “(1) the name and address of the person re-
 4 quired to make such return and the phone number
 5 of the information contact for such person,

6 “(2) the aggregate amount of payments de-
 7 scribed in subsection (a) received by the person re-
 8 quired to make such return from the individual to
 9 whom the statement is required to be furnished, and

10 “(3) the information required under subsection
 11 (b)(2)(B) with respect to such payments.

12 The written statement required under the preceding sen-
 13 tence shall be furnished on or before January 31 of the
 14 year following the calendar year for which the return
 15 under subsection (a) is required to be made.

16 “(e) RETURNS WHICH WOULD BE REQUIRED TO BE
 17 MADE BY 2 OR MORE PERSONS.—Except to the extent
 18 provided in regulations prescribed by the Secretary, in the
 19 case of any amount received by any person on behalf of
 20 another person, only the person first receiving such
 21 amount shall be required to make the return under sub-
 22 section (a).”.

23 (2) ASSESSABLE PENALTIES.—

24 (A) Subparagraph (B) of section
 25 6724(d)(1) of such Code (relating to defini-

tions) is amended by redesignating clauses (xii) through (xviii) as clauses (xiii) through (xix), respectively, and by inserting after clause (xi) the following new clause:

“(xii) section 6050U (relating to returns relating to payments for qualified health insurance),”.

(B) Paragraph (2) of section 6724(d) of such Code is amended by striking “or” at the end of the next to last subparagraph, by striking the period at the end of the last subparagraph and inserting “, or”, and by adding at the end the following new subparagraph:

“(CC) section 6050U(d) (relating to returns relating to payments for qualified health insurance).”.

(3) CLERICAL AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 of such Code is amended by inserting after the item relating to section 6050T the following new item:

“Sec. 6050U. Returns relating to payments for qualified health insurance.”.

(c) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 1324(b) of title 31, United States Code, is amended by inserting before the period “, or from section 36 of such Code”.

1 (2) The table of sections for subpart C of part
 2 IV of subchapter A of chapter 1 of the Internal Rev-
 3 enue Code of 1986 is amended by striking the last
 4 item and inserting the following new items:

“Sec. 36. Health insurance costs.

“Sec. 37. Overpayments of tax.”.

5 (d) **EFFECTIVE DATE.**—The amendments made by
 6 this section shall apply to taxable years beginning after
 7 December 31, 2006.

8 **SEC. 3. ADVANCE PAYMENT OF CREDIT FOR PURCHASERS**
 9 **OF QUALIFIED HEALTH INSURANCE.**

10 (a) **IN GENERAL.**—Chapter 77 of the Internal Rev-
 11 enue Code of 1986 (relating to miscellaneous provisions)
 12 is amended by adding at the end the following new section:

13 **“SEC. 7529. ADVANCE PAYMENT OF HEALTH INSURANCE**
 14 **CREDIT FOR PURCHASERS OF QUALIFIED**
 15 **HEALTH INSURANCE.**

16 “(a) **GENERAL RULE.**—In the case of an eligible indi-
 17 vidual, the Secretary shall make payments to the provider
 18 of such individual’s qualified health insurance equal to
 19 such individual’s qualified health insurance credit advance
 20 amount with respect to such provider.

21 “(b) **ELIGIBLE INDIVIDUAL.**—For purposes of this
 22 section, the term ‘eligible individual’ means any indi-
 23 vidual—

1 “(1) who purchases qualified health insurance
2 (as defined in section 36(c)), and

3 “(2) for whom a qualified health insurance
4 credit eligibility certificate is in effect.

5 “(c) QUALIFIED HEALTH INSURANCE CREDIT ELIGI-
6 BILITY CERTIFICATE.—For purposes of this section, a
7 qualified health insurance credit eligibility certificate is a
8 statement furnished by an individual to the Secretary
9 which—

10 “(1) certifies that the individual will be eligible
11 to receive the credit provided by section 36 for the
12 taxable year,

13 “(2) estimates the amount of such credit for
14 such taxable year, and

15 “(3) provides such other information as the
16 Secretary may require for purposes of this section.

17 “(d) QUALIFIED HEALTH INSURANCE CREDIT AD-
18 VANCE AMOUNT.—For purposes of this section, the term
19 ‘qualified health insurance credit advance amount’ means,
20 with respect to any provider of qualified health insurance,
21 the Secretary’s estimate of the amount of credit allowable
22 under section 36 to the individual for the taxable year
23 which is attributable to the insurance provided to the indi-
24 vidual by such provider.

1 “(e) REGULATIONS.—The Secretary shall prescribe
2 such regulations as may be necessary to carry out the pur-
3 poses of this section.”.

4 (b) CLERICAL AMENDMENT.—The table of sections
5 for chapter 77 of such Code is amended by adding at the
6 end the following new item:

“Sec. 7529. Advance payment of health insurance credit for purchasers of
qualified health insurance.”.

7 (c) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to taxable year beginning after the
9 date of the enactment of this Act.

10 **SEC. 4. LIMITATION ON EMPLOYER-PROVIDED HEALTH**
11 **CARE COVERAGE.**

12 (a) IN GENERAL.—Section 106 of the Internal Rev-
13 enue Code of 1986 (relating to contributions by employer
14 to accident and health plans) is amended by adding at the
15 end the following new subsection:

16 “(e) LIMITATION ON EMPLOYER-PROVIDED HEALTH
17 CARE COVERAGE.—

18 “(1) IN GENERAL.—The amount of any exclu-
19 sion under subsection (a) for any taxable year with
20 respect to—

21 “(A) any employer-provided coverage
22 under an accident or health plan which con-
23 stitutes medical care, and

1 “(B) any employer contribution to an Ar-
 2 cher MSA or a health savings account which is
 3 treated by subsection (b) or (d) as employer-
 4 provided coverage for medical expenses under
 5 an accident or health plan,
 6 shall not exceed \$5,000 per employee for self-only
 7 coverage and \$11,500 for family coverage.

8 “(2) MEDICAL CARE DEFINED.—For purposes
 9 of paragraph (1), the term ‘medical care’ has the
 10 meaning given to such term in section 213(d) deter-
 11 mined without regard to—

12 “(A) paragraph (1)(C) thereof, and

13 “(B) so much of paragraph (1)(D) thereof
 14 as relates to qualified long-term care insur-
 15 ance.”.

16 (b) EFFECTIVE DATE.—The amendment made by
 17 this section shall apply to taxable years beginning after
 18 December 31, 2006.

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